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BEFORE THE ARIZONA CORPORATION COMMISSION

## COMMISSIONERS

2009 JUL 20 A 9:56

Arizona Corporation Commission

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KRISTIN K. MAYES, Chairman

GARY PIERCE

AZ CORP COMMISSION

JUL 20 2009

PAUL NEWMAN

DOCKET CONTROL

SANDRA D. KENNEDY

BOB STUMP

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
MERCURY VOICE & DATA COMPANY FOR  
APPROVAL OF A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
PROVIDE RESOLD LOCAL EXCHANGE,  
RESOLD LONG DISTANCE, FACILITIES-  
BASED LOCAL EXCHANGE AND  
FACILITIES-BASED LONG DISTANCE  
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-20613A-08-0420

PROCEDURAL ORDER**BY THE COMMISSION:**

On August 8, 2008, Mercury Voice & Data Company ("Mercury" or "Company"), filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity to provide resold local exchange, resold long distance, facilities-based local exchange and facilities-based long distance telecommunications services in Arizona ("Application").

On January 23, 2009, Mercury filed its responses to the Commission's Utilities Division Staff ("Staff") Second Set of Data Requests.

On June 29, 2009, Staff filed its Staff Report recommending approval of the Application.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall be held on **September 30, 2009, at 1:00 p.m.**, or as soon thereafter as is practical, at the Commission's offices, Hearing Room 1, 1200 West Washington Street, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-

1 105, except that all Motions to Intervene must be filed on or before **September 9, 2009**.

2 IT IS FURTHER ORDERED that any **objections to the Staff Report or to any Motions to**  
3 **Intervene** shall be filed on or before **September 18, 2009**.

4 IT IS FURTHER ORDERED that the Company shall **publish notice** of the hearing as stated  
5 as stated below, in a newspaper(s) of general circulation in every county in Arizona in which the  
6 Company desires to provide service as soon as possible, but no later than **August 14, 2009**, and shall  
7 **file an Affidavit(s) of Publication** with the Commission no later than **August 28, 2009**.

8 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and  
9 publication of same, notwithstanding the failure of an individual customer or property owner to read  
10 or receive the notice.

11 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in  
12 this matter, in the following form and style:

13 **PUBLIC NOTICE OF THE HEARING ON THE APPLICATION OF MERCURY**  
14 **VOICE & DATA COMPANY FOR APPROVAL OF A CERTIFICATE OF**  
15 **CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LOCAL EXCHANGE,**  
16 **RESOLD LONG DISTANCE, FACILITIES-BASED LOCAL EXCHANGE AND**  
17 **FACILITIES-BASED LONG DISTANCE TELECOMMUNICATIONS SERVICES.**  
18 **(Docket No. T-20613A-08-0420)**

19 **Summary**

20 On August 8, 2008, Mercury Voice & Data Company ("Company") submitted to the  
21 Arizona Corporation Commission ("Commission") an application for a Certificate of  
22 Convenience and Necessity to provide resold local exchange, resold long distance,  
23 facilities-based local exchange and facilities-based long distance telecommunications  
24 services. The Commission's Utilities Division ("Staff") has not yet made a  
25 recommendation regarding the Company's application, and the Commission is not  
26 bound by the proposals made by the Company, Staff, or any intervenors. The  
27 Commission will issue a decision regarding the Company's application following  
28 consideration of testimony and evidence presented at an evidentiary hearing.

**How You Can View or Obtain a Copy of the Application**

Copies of the application are available at the Company's offices [**COMPANY  
INSERT ADDRESS HERE**] and the Commission's offices at 1200 West  
Washington, Phoenix, Arizona, for public inspection during regular business hours and  
the internet via the Commission website (www.azcc.gov) using the e-docket function.

### **Arizona Corporation Commission Public Hearing Information**

The Commission will hold a hearing on this matter beginning **September 30, 2009, at 1:00 p.m.** or as soon thereafter as is practical, at the Commission's offices, Hearing Room 1, 1200 West Washington Street, Phoenix, Arizona 85007. Public comments will be taken on the first day of the hearing. Written public comments may be submitted via email (visit [http://www.azcc.gov/divisions/utilities/forms/public\\_comment.pdf](http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf) for instructions), or by mailing a letter referencing Docket Number T-20613A-08-0420 to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services Section at (800) 222-7000.

### **About Intervention**

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. **If you would like to intervene, you must file a written motion to intervene with the Commission no later than September 9, 2009.** You must send copies of the motion to the Company or its counsel, and to all parties of record in the case. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom documents are to be served in your place, if desired;
2. A short statement of your interest in the proceeding (e.g., a customer of the Company, a shareholder of the Applicants, etc.); and
3. A statement certifying that a copy of your motion to intervene has been mailed to the Company or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before September 9, 2009.** If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Arizona Corporation Commission's webpage at <http://www.azcc.gov/divisions/utility/forms.asp>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. **However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.**

### **ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative

1 format, by contacting the ADA Coordinator Guadalupe Ortiz, E-mail  
2 gnortiz@azcc.gov, voice phone number 602/542-3931. Requests should be made as  
3 early as possible to allow time to arrange the accommodation.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
5 Communications) continues to apply to this proceeding as the matter is set for public hearing.

6 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
7 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*  
8 *hac vice*.

9 IT IS FURTHER ORDERED that the intervention granted herein is conditioned upon the  
10 intervenor obtaining counsel to represent the intervenor if required by Rule 31 of the Rules of the  
11 Arizona Supreme Court, and such counsel filing a notice of appearance with the Commission, within  
12 30 days of the date of this Procedural Order.

13 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
14 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
15 Rules of Arizona Supreme Court). Representation before the Commission includes appearances at all  
16 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled  
17 for discussion, unless counsel has previously been granted permission to withdraw by the  
18 Administrative Law Judge or the Commission.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
20 Communications) applies to this proceeding and shall remain in effect until the Commission's  
21 Decision in this matter is final and non-appealable.

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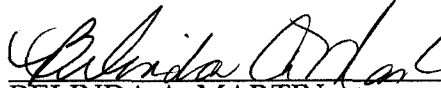
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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 Dated this 17<sup>th</sup> day of July, 2009.

4  
5   
6 BELINDA A. MARTIN  
ADMINISTRATIVE LAW JUDGE

7  
8 Copies of the foregoing mailed/delivered  
this 17<sup>th</sup> day of July, 2009, to:

9 Joseph N. Roth, Esq.  
10 OSBORN MALEDON, PA  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012

11 Janice Alward, Chief Counsel  
12 Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
13 Phoenix, Arizona 85007

14 Ernest Johnson, Director  
15 Utilities Division  
ARIZONA CORPORATION COMMISSION  
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16 Phoenix, Arizona 85007

17 Arizona Reporting Service, Inc.  
2200 N. Central Avenue, Suite 502  
18 Phoenix, Arizona 85004-1481

19 By:

  
20 Julio Ibarra  
Secretary to Belinda A. Martin